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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,480

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Stephen Johnson

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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
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EXAMINER

NGUYEN, KIM T

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/692,480

Applicant(s)

JOHNSON, STEPHEN

Examiner

Kim T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract contains the legal phraseology "means" in lines 3 and 6. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

Claim Objections

2. Claims 1 and 15 are objected to because of the following informalities:

a) In claim 1, line 3, and claim 15, line 4, the claimed limitation "the display means" should be corrected to "the display".

b) In claim 1, line 4, and claim 15, lines 4-5, the claimed limitation "the machine" should be corrected to "the gaming machine".

c) In claim 1, lines 6-7, the claimed limitation "the determining means" should be corrected to "the determining module".

d) In claim 1, line 7, and claim 15, line 7, the claimed limitation "the probability of the player" should be corrected to "a probability of a player".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) In claim 1, line 6, and claim 15, line 6, and claim 1 the claimed limitation "the awarding of an initial prize" lacks of antecedent basis.

b) In claim 6, line 6, the claimed limitation "the addition of prizes" lacks of antecedent basis.

c) The remaining claims are rejected as being the rejected base claim.

Claim Rejections - 35 USC § 103

5. **Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher et al (U.S. Patent No. 6,406,369) in view of Vancura (U.S. Patent No. 6,409,172).**

Claims 1-2: Baerlocher discloses a gaming machine having a display and a game controller arranged to control images of symbols displayed on the display (Fig. 1), the game controller is arranged to play a game wherein at least one random event is caused to be displayed on the display and, if a predefined winning event occurs, the gaming machine awards a prize (col. 5, lines 40-48; and col. 6, lines 20-27), the gaming machine includes a determining module for determining whether or

not at least one further prize, following the awarding of an initial prize (col. 16, lines 66-67), is to be awarded (col. 6, lines 28-43). Baerlocher does not explicitly disclose determining the probability of the player successfully winning a further prize using the value of an initial prize. However, since Baerlocher discloses that the probability of success decreases in accordance with the increase of the multipliers (col. 3, lines 51-57; col. 8, lines 25-40; and col. 13, lines 61-63), and since the value of a prize is determined by multiplying the player's bet by the bonus multiplier achieved by the player (col. 11, lines 30-33; and col. 12, lines 19-21), Baerlocher obviously discloses determining the probability of the player successfully winning a further prize using the value of an initial prize in order to increase excitement of the game. Vancura, further, discloses relating a probability of landing on each position to the prize value of each position so that a predetermined game return is maintained in the casino (col. 2, lines 36-39; col. 3, lines 29-49; col. 4, lines 46-49; col. 7, lines 33-38). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate determining the probability of the player successfully winning a further prize using the value of a prize of Vancura to the gaming machine of Baerlocher in order to provide an expected return to the player.

Claim 3: Baerlocher discloses the prize won is in the form of a number of credits (col. 12, lines 19-23). Further, determining a probability of winning a further prize based on a criteria such as average credits awarded to players would have been both well-known and obvious design choice according to a game designer's preference.

Claim 4: Vancura discloses determining the probability of success so that the average number of credits won in respect of the game after completion of the determination of the probability of success is approximately the same as the number of credits won before the completion of the determination of the probability of success (col. 3, lines 29-49; col. 4, lines 46-49).

Claim 5: Vancura discloses that the player risks losing at least a portion of the already won prize if any subsequent outcome is unsuccessful (col. 6, lines 45-48).

Claim 6: since Vancura discloses providing for an expected return on the overall game within a predetermined limit (col. 5, lines 6-7 and 54-55), Vancura obviously discloses determining the probability of success of winning any further prizes based on the total prize the player has won.

Claim 7: Vancura discloses including a plurality of pathways and the player is able to choose one of the pathways as an initial step in playing the game (Fig. 6; col. 3, lines 12-16; and col. 4, lines 9-10).

Claim 8: Vancura discloses switching from one pathway to another pathway (Fig. 1; col. 8, lines 9-12).

Claims 9-10: Vancura discloses each pathway has a predetermined number of steps (col. 4, lines 43-49).

Claims 11-12: Vancura discloses applying a numerical constant to each step in each pathway in determining the probability of successfully completing that step in the pathway if selected by the player, the numerical constant being related to an

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average prize won up to that point in the game (col. 4, lines 36-49). Further, applying the same numerical constant to corresponding steps in each of the pathways would have been obvious design choice and requires only routine skill in the art.

Claim 13: Vancura discloses predetermining the numerical constants (col. 4, lines 36-37).

Claim 14: Vancura discloses determining the numerical constants such that the effect of a player switching pathways is obviated (col. 3, lines 46-49; col. 4, lines 36-42).

Claims 15-25: refer to discussion in claims 1-4, 6-11 and 13-14 above.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Date: January 3, 2007



Kim T. Nguyen
Primary Examiner
Art Unit 3714